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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/635,060	08/06/2003	Stephen B. Leonard	J-3149A	1312
28165	7590	12/29/2003	EXAMINER	
S.C. JOHNSON & SON, INC. 1525 HOWE STREET RACINE, WI 53403-2236			NGUYEN, TUAN N	
			ART UNIT	PAPER NUMBER
			3751	

DATE MAILED: 12/29/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary**Application No.**

10/635,060

Applicant(s)

LEONARD ET AL.

Examiner

Tuan N. Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 November 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Filed 11/10/03
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 1-3 and 5-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Creed in view of Camp et al. (hereinafter Camp).

Creed discloses a dispensing device for using a flow of water during a toilet flush to dispense toilet bowl treatment preparations into a toilet bowl. The Creed device comprising a container (5) holding a dissolvable product, the container being configured to permit water from the flow water to enter the container during a toilet flush, and the container including an opening configured to permit a mixture comprising water and dissolved product to be released from the container into the toilet bowl; a suspension means for suspending the base from a rim of the toilet bowl; and a liquid fragrance bottle (4) integrally formed on one horizontal end of the container (5) having holes (8) to allow the liquid fragrance to be evaporated so as to disinfect the air. The rate of the liquid being evaporated or dispensed cannot be accurately control with the Creed bottle. The concept of the bottle, base, and wicking device as claimed is not known in the year of the Creed reference. However, Creed does teach the concept of having both the liquid and solid disinfectants to form a single dispensing device with a suspension means. Furthermore, Camp, patented in 2001, teaches a device (see Fig. 2) with a concept comprises a bottle for holding a liquid disinfectant comprises a surfactant and fragrance as claimed, a base for holding the bottle

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as claimed, and a wicking device (6) supported by the base as claimed. Therefore, it would have been obvious to one of ordinary skill in the art **at the time the invention was made** to modify the Creed liquid bottle (4) with a bottle device with a concept comprises a bottle for holding a liquid disinfectant, a base for holding the bottle, and a wicking device as, for example, taught by Camp in order to accurately control the dispensing rate of the liquid disinfectant to provide a cost-effective solution.

2. Claim 4 and 8 rejected under 35 U.S.C. 103(a) as being unpatentable over Creed in view of Camp as applied to claims 1 and 5 above, and further in view of Klinkhammer et al. (hereinafter Klinkhammer).

The Creed in view of Camp device teaches all of the claim limitations as discussed above. The Creed reference fails to point out the specific of the dissolvable disinfectant including a bleaching agent or a chlorine-releasing agent. Attention is directed to the Klinkhammer reference, which indicates that a typical dissolvable product could have a bleach agent (see col. 1, lines 14-23). Therefore, it is the Examiner's position that to include bleach agent or a chlorine releasing agent in or as the Creed dissolvable product would be well within the realm of obviousness to one of ordinary skill in the art at the time the invention was made.

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).


3. Claims (1 and 4) and (5 and 8) are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims (1 and 17) and (19 and 20) respectively of U.S. Patent No. 6,662,380 B1. Although the conflicting claims are not identical, they are not patentably distinct from each other because claims 1 and 4 of the instant application includes the exact limitations as claims 1 and 17 of U.S. Patent No. 6,662,380 B1 less the limitations "the bottle having a mouth and a closure for covering the mouth;" "the base having a piercing post, the piercing post being suitable for opening the closure of the bottle;" and the container "attached to the base" and because claims 5 and 8 of the instant application includes the exact limitations as claims 19 and 20 of U.S. Patent No. 6,662,380 B1 less the limitation the container "attached to the base".

Conclusion

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tuan N. Nguyen whose telephone number is 703-306-9046. The examiner can normally be reached on Monday-Friday (10:00-6:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory L. Huson can be reached on 703-308-2580. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-872-9301.


Tuan N. Nguyen
Primary Examiner
Art Unit 3751
12/27/03

TN